IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8236 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHARADKANT M PATHAK

Versus

STATE OF GUJARAT AND ANOTHER

Appearance:

MR HJ NANAVATI for Petitioner

MS KATHABEN GAJJAR A.G.P. for Respondent Nos.1,2,3

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 16/03/2001

ORAL JUDGEMENT

The petitioner who is qualified, having completed two years' Certificate Course of Horology, was appointed

as an instructor in the Industrial Training Institute, Vijaynagar, in the trade of Watch and Clock repairing with effect from 1st February, 1984. Thereafter, the petitioner's services were terminated from time to time and fresh appointment was granted on different dates for different periods. Ultimately vide order dated 26th May, 1986 the petitioner was appointed as an employee on probation with effect from 1st July, 1986, and at the end of the period of probation, in January 1987, his services were terminated. Thereafter, the petitioner was again appointed on the same post at Vijaynagar I.T.I. with effect from 1st June, 1988 vide order dated 27th May, 1988. That on 18th July, 1989 petitioner was served with an order relieving him from service with effect from 20th July, 1989. Being aggrieved by the said order the present petition was filed seeking relief that the impugned order dated 18th July, 1989 be quashed and set aside and that the artificial break in the service by giving various appointment orders from time to time be declared as arbitrary, illegal, improper and unjustified. It is further prayed that respondent be directed to reinstate the petitioner with full backwages and continue the petitioner in the service on the original post or any other similar post with all other attendant benefits.

2. However, in light of subsequent developments which have taken place after the petition was filed and admitted, it is not necessary for us to enter into details as regards the controversy brought before us. Vide Order dated 22nd May, 1992 (a copy whereof has been produced by the learned A.G.P.) the petitioner has been given fresh appointment on probation basis. Mr.Nanavati for the petitioner makes a statement that the petitioner has been thereafter continued in the service without any break.

3. In view of these circumstances, the grievance of the petitioner does not survive and the petition deserves to be rejected on this ground alone. However, Mr. Nanavati at this juncture prayed that the respondents may be directed to consider the petitioner's services from 1986 onwards for the purpose of benefits of pension and other attendant benefits without taking into consideration any subsequent artificial break in the service. As the said subject matter does not form part of this petition, we do not go into the same and do not express any opinion in the matter. It is always open to the petitioner to make a representation to the said effect before the appropriate authority and it will be

open to the authority to consider the same favourably in accordance with law. It would be in the fitness of things that the representation is disposed off within 12 weeks from the date of the receipt of the representation.

4. The petition is accordingly disposed off as rejected. Rule discharged. No order as to costs.

(D.A. Mehta, J)

(Bhavesh)